

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6191

BILL NUMBER: SB 85

NOTE PREPARED: Dec 13, 2008

BILL AMENDED:

SUBJECT: Medicaid Attorney's Fees.

FIRST AUTHOR: Sen. Miller

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
X FEDERAL

IMPACT: State

Summary of Legislation: This bill reduces the amount of attorney's fees the Office of Medicaid Policy and Planning is required to pay for Medicaid lien collection cases.

Effective Date: July 1, 2009.

Explanation of State Expenditures:

Explanation of State Revenues: This bill decreases the amount required to be paid for attorney's fees for subrogation lien recoveries. Decreasing the attorney's fees would increase the amount of the recovery available to the state Medicaid Program and the federal government. The impact on the state General Fund for FY 2010 is estimated to range from \$536,000 to as high as \$749,000, depending on the growth rate of recoveries and the mix of the fees actually paid.

Background Information: The Office of Medicaid Policy and Planning (OMPP) reports that this statutory change applies to the fees paid for attorneys in personal injury lawsuits and settlements involving Medicaid recipients. It does not apply to estate recovery or liens against real property. OMPP reported actual recovery amounts after payment of attorney fees, of \$3.41 M in FY 2006, \$2.31 M in FY 2007, and \$2.42 M in FY 2008.

The bill provides that attorneys' fees due on recoveries made without initiating legal proceedings would be 7.5%, rather than 25% as under current statute. Attorney fees for recoveries made after initiating legal proceedings would be 10%, rather than the current 33.3%. The reduced attorney fees will increase the total

amount of recoveries available to Medicaid. The Medicaid Program is jointly funded by the state and federal governments. The state share of program expenditures and any subsequent recovery of expenditures is approximately 38%.

If recoveries are estimated at the five-year average that occurred between FY 2004 and FY 2008, the increased revenues to the state General Fund in FY 2010 are estimated to be a minimum of \$536,000. The maximum General Fund impact for FY 2010 is estimated to be \$749,000.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Office of Medicaid Policy and Planning.

Local Agencies Affected:

Information Sources: OMPP

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